

I. OBVIOUSNESS-TYPE DOUBLE PATENTING

Claims 21-40 stand rejected under the judicially created doctrine of obviousness double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 5,451,375.

In response thereto, the Applicant encloses herewith a terminal disclaimer in compliance with 37 CFR 1.321 (b) and (c) which overcomes this rejection. Also enclosed herewith is the appropriate fee for the terminal disclaimer.

Accordingly, the double patenting rejection should be withdrawn.

II. REJECTION UNDER 35 USC §112

Claims 21-25 and 31-40 stand rejected under 35 USC §112, second paragraph, as being indefinite.

In response thereto, applicant has amended the claims to eliminate the problems indicated by the examiner. In particular, the recitation of "said wall" in claim 21 has been amended to recite "said wall of said second member", further, claim 21 has been amended to include the examiner's suggested language regarding the construction of the bead.

Regarding the examiner's objection to the "gripping means", the examiner has incorrectly assumed the structure of the gripping means as the projection and recess. Applicant does not understand why the examiner can not properly identify the structure of this element. In claim 24, "gripping means" is first introduced after the recitation of the recess and bead

structure in claim 21; "further comprising gripping means on said wall of said second member for providing a place to manually grip the second member during assembly of said cup". Furthermore, on page 8, lines 7-9 of the specification (describing FIG. 1), applicant clearly describes such a structure; "a lip extension 46 is disposed on the exterior of the annular collar 14. The lip extension 46 facilitates the handling and alignment of the overall sample cup 10 when assembled and placed within the spectroscopic instrumentation."

In an effort to be responsive to the examiner's objection, claims 24, 31 and 33 have been amended to recite "gripping means on an outer surface of said wall of said second member". The outer surface of the second member wall has no other features, i.e., the bead is located on the inner surface thereof.

Accordingly, claims 21-40 as amended, comply with all the requirements of 35 USC §112.

III. REJECTION UNDER 35 USC §102

Claims 21-40 stand rejected under 35 USC §102(b) as being clearly anticipated by Solazzi '210. This rejection is traversed for the following reasons.

Independent claims 21, 26 and 33 have been amended to recite "said second member having a generally cylindrical wall which extends from said annular flange of said first member to said second end of said wall of said first member when said members are assembled together". When the two members of the present

invention are assembled to retain the thin film placed across said second end of the first member, the overhanging portion of the thin film is pulled all the way down around the wall of the first member to progressively and automatically increase the tautness of the film thus, providing a consistent sample plane.

In contrast, the second member in Solazzi '210 does not extend from the first member's annular flange. As shown in FIGS. 4 and 5 of Solazzi '210, the second member wall extends from a point which is substantially spaced from the first member's annular flange. Thus, when the two members in Solazzi '210 are assembled to retain the thin film placed across said second end of the first member, the overhanging portion of the thin film is not pulled all the way down around the wall of the first member. Hence, the thin film extending across the second end of the first member will not be sufficiently taut thereby causing inconsistencies in the sample plane.

Since Solazzi '210 fails to disclose every feature recited in claims 21-40, as required under 35 USC §102, the rejection should be withdrawn.

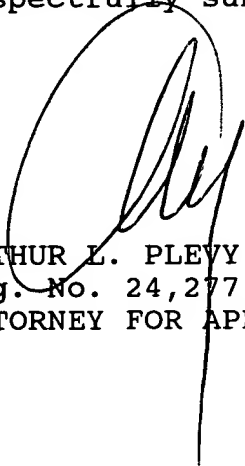
IV. CONCLUSION

In view of the foregoing, the applicant submits that claims 21-40 are currently in condition for allowance, early notification of which is earnestly solicited. Should there remain any questions or other matters whose resolution may be advanced by a telephone call, the Examiner is cordially invited

to contact the applicant's undersigned attorney at his number below.

If there are any other fees due and owing, please charge Deposit Account No. 16-2131.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Plevy', is written over the typed name and title.

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